

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PETER J. SOLOMON COMPANY, L.P. and
PETER J. SOLOMON SECURITIES
COMPANY, LLC,

Plaintiffs,

v.

ADC PRODUCTS (UK) LIMITED f/k/a
SPIROGEN LIMITED,

Defendant.

Case No. 14-cv-4086 (LTS)(FM)

**NOTICE OF MOTION FOR SUMMARY
JUDGMENT**

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that upon the Statement of Undisputed Facts Pursuant To Rule 56.1(a), the Declarations of Mitchell Berns, Scott Napolitano, Frederick Frank, Kenneth Baronoff, and G. Steven Burrill and annexed exhibits, and plaintiffs' Memorandum of Law, plaintiffs Peter J. Solomon Company, L.P. and Peter J. Solomon Securities Company, LLC will move this Court, before the Honorable Laura Taylor Swain, United States District Judge, Southern District of New York, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl St., New York, New York, on a date and time to be determined by the Court, for an order and judgment, pursuant to Rule 56 of the Federal Rules of Civil Procedure, granting plaintiffs' motion for summary judgment on the grounds that there is no genuine issue of material fact requiring a trial and plaintiffs are entitled to judgment as a matter of law, and granting plaintiffs' costs, fees, and disbursements together with such further relief as the Court deems just.

Pursuant to § 2(b)(i)(A) of Judge Swain's Individual Practices, the parties have used their best efforts to resolve the matters in controversy. On March 18, 2015, the parties attended a settlement conference with Judge Maas after submitting confidential settlement statements to

Judge Maas. DE 22. The parties were unable to settle the matters in controversy at this conference. On March 20, 2015, Judge Maas issued an Order stating: “Motions for Summary Judgment shall be filed by July 3, 2015. Opposition papers shall be filed by July 24, 2015; replies may be filed by July 31, 2015.” DE 23. The parties subsequently agreed to move the opposition deadline to July 22, 2015, which was also so-ordered by Judge Maas on May 28, 2015. DE 26. Prior to this, the parties engaged in an informal conference, held on July 31, 2014, to discuss the issues set forth in the Court’s Initial Conference Order. This included discussion of the nature of the action, the undisputed facts, the parties’ positions as to the legal issues to be determined by the Court, and the parties’ respective positions on the merits of the claim and defenses in the action. Memorializing this, the parties filed a joint preliminary pre-trial statement on August 29, 2014. DE 12. Accordingly, the parties’ summary judgment motions are ripe for resolution by the Court.

PLEASE TAKE FURTHER NOTICE that for their reinstated summary judgment filings, the parties agree that answering papers shall be filed on or before July 22, 2015, and reply papers shall be filed on or before July 31, 2015.

Dated: New York, New York
July 9, 2015

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